

MAR 25 2008

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

ALEJANDRO GALINDEZ MARTINEZ,

Petitioner,

v.

MICHAEL B. MUKASEY, Attorney
General,

Respondent.

No. 06-74621

Agency No. A96-064-277

MEMORANDUM *

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted March 18, 2008**

Before: CANBY, T. G. NELSON, and BEA, Circuit Judges

Alejandro Galindez Martinez, a native and citizen of Mexico, petitions pro se for review of the Board of Immigration Appeals' denial of his motion to reopen as untimely. In the motion, he sought to apply for protection under the Convention

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

Against Torture following the denial of his application for cancellation of removal. Our jurisdiction is governed by 8 U.S.C. § 1252. We deny the petition for review.

Galindez Martinez contends that his motion to reopen was timely because there is no time limit for motions to reopen that seek relief under CAT and because he only recently became aware of government-sponsored torture in Mexico.

Galindez Martinez filed his motion to reopen outside the ninety-day time limit set forth in 8 C.F.R. § 1003.2(c)(2). *Cf. Khourassany v. INS*, 208 F.3d 1096, 1099 & n.2 (9th Cir. 2000) (discussing exception to time limit for CAT applicants ordered removed before March 22, 1999). In addition, he failed to present material evidence of changed country conditions that was not available and could not have been presented at the previous proceeding. *See* 8 C.F.R. § 1003.2(c)(3)(ii); *He v. Gonzales*, 501 F.3d 1128, 1131-32 (9th Cir. 2007).

Galindez Martinez also contends that he established a prima facie case of eligibility for relief under CAT. The generalized evidence attached to his motion did not meet this standard. *See Nuru v. Gonzales*, 404 F.3d 1207, 1216 (9th Cir. 2005) (holding that CAT applicant must establish that it is more likely than not that he would be tortured if removed to his native country); *Ordonez v. INS*, 345 F.3d 777, 785 (9th Cir. 2003) (holding that motion to reopen must establish prima facie case demonstrating reasonable likelihood that requirements for relief have been

satisfied).

PETITION FOR REVIEW DENIED.